

## PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

### PUBLIC HEARING

#### DOCKET NO. 9-45-06V & 10-34-06

Change in zoning from R-4 Single Family Residential to R-5A Multi-family Residential, waiver to permit more than a 50% encroachment of a utility easement into the required LBA, also, related **Subdivision Docket No. 10-34-06, Villages of Star Hill**, on property located at 6700 S. Hurstbourne Parkway (Tax Block 628, Lot 154), containing 17.25 acres and being in Metro Louisville.

Owner:	Henson Properties, LLC Edward Henson, Member 2335 Bonnycastle Avenue Louisville, KY 40205
Applicant:	McBride & Son Homes Land Development, Inc. 331 Townepark Circle Suite 100 Louisville, KY 40243
Attorney:	William B. Bardenwerper Bardenwerper, Talbott & Roberts PLLC 8311 Shelbyville Road Louisville, KY 40222
Engineer/Designer:	Mindel Scott & Associates Inc. 4545 Bishop Lane Suite 200 Louisville, KY 40218
Existing Use(s):	Vacant
Proposed Use:	Multi-family Residential
Council District:	23 – James Peden
<b>Staff Case Manager:</b>	<b>Latondra Jones, Planner II</b>

Notice of this public hearing appeared in **The Courier Journal** on November 13, 2006, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**The following spoke in favor of this request:**

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

#### **DOCKET NO. 9-45-06V & 10-34-06**

Bill Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 8311 Shelbyville Road, Louisville, KY 40222

David Mindel, Mindel Scott & Associates, 4545 Bishop Lane Suite 200, Louisville, KY 40218

Eril Merten, Mindel Scott & Associates, 4545 Bishop Lane Suite 200, Louisville, KY 40218

Steve Raiche, McBride & Son Homes Land Development, Inc., 331 Towne Park Circle Suite 100

#### **The following spoke in opposition:**

No one spoke.

#### **Interested Parties:**

No one spoke.

#### **AGENCY TESTIMONY:**

Latondra Jones presented the case and showed a Power Point presentation with maps and photos of the site and the surrounding area. This area is within the boundaries of the Fern Creek Neighborhood Plan. Ms. Jones stated her recommendations regarding the parkway buffer and the LG&E easement.

Commissioner Hamilton asked about sinkholes that had been identified on the property.

#### **SUMMARY OF TESTIMONY OF PROPONENTS:**

William Bardenwerper, the applicant's representative, distributed the applicant's proposed findings of fact, which were not included in the exhibit booklets. He also distributed the applicant's proposed binding elements which were the same as staff's with one exception. He showed a Power Point presentation which included photos of the site and the surrounding area, and he also described other developments in the immediate area. He submitted a letter from LG&E regarding planting within the LG&E easement. Mr. Bardenwerper showed the proposed development plans for the site as part of his Power Point presentation, which included building elevations and landscaping.

## PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

### PUBLIC HEARING

DOCKET NO. 9-45-06V & 10-34-06

Commissioner Ernst asked about the proposed trees within the development. Mr. Bardenwerper said ornamental trees are allowed in the LG&E easement, but the developer planned for hardwood trees (oaks, etc.) in the interior. He said the applicant has proposed a re-writing of **binding element #15, which reads, "The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 Land Development Code prior to recording a record plat. The applicant shall provide the landscape materials on the site as specified on the approved landscape plan prior to the issuance of the Certificate of Occupancy. The applicant shall provide landscaping along Hurstbourne Parkway frontage, including a variable 15-foot landscape buffer area outside the LG&E easement, meaning in some places more and in some places less than 15 feet outside the LG&E easement can be provided as long as the average is 15 feet."** This means that the average will be 15 feet outside the easement.

Commissioner Wells-Hatfield suggested some evergreen trees along Hurstbourne Parkway to provide buffering in the winter. Mr. Bardenwerper said evergreens and/or taller trees can be planted outside the LG&E easement. Ms. Jones elaborated on this and discussed the issue with Mr. Bardenwerper and the Commissioners.

In response to a question from Commissioner Queenan, Mr. Bardenwerper discussed the possibility of adding patios in the future.

David Mindel, Mindel Scott & Associates, addressed the sinkhole issue. He said there was one large sinkhole in the back that is being protected. In the whole area, there are several much smaller sinkholes that will be mitigated. The large one will be protected with a large buffer area. Commissioner Hamilton asked if future buyers will be informed of this geographical issue. Mr. Bardenwerper said the applicant would follow the NCRS recommendations. He said the applicant would agree to a notice placed in the master deed regarding a sinkhole/s on the property and would submit proof to the Planning Commission legal counsel regarding this.

Commissioner Wells-Hatfield asked about what percentage of building materials will be brick vs. siding. Mr. Bardenwerper said the buildings will be mostly brick except for the accent areas shown on the renderings. Mr. Bardenwerper said he would be willing to agree to a binding element stating this.

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

Regarding the sinkhole issue, Ms. Jones said the sinkholes needed to be shown on the plan.

### **SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke.

### **SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

No one spoke.

### **REBUTTAL:**

There was no need for rebuttal since no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 7, 2006 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

### **Zoning**

On a motion by Commissioner Blake, the following resolution was adopted:

**WHEREAS**, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, the Commission finds that McBride & Son Homes proposes the mixed use "Villages of Star Hill" residential condominium community along the north side of S. Hurstbourne Parkway between Fegenbush Lane and Watterson Trail; that the proposed plan for Villages of Star Hill provides new public streets through the subject property, which public streets require the submittal of the subdivision application; and that the proposed public streets will connect the proposed development to the properties to the east and west, and a 30' access easement will connect the proposed development to the property to the north; and

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

**WHEREAS**, the Commission finds that the application complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because the subject property lies within the Neighborhood Form District and is located just west of the intersection of South Watterson Trail and South Hurstbourne Parkway; because the site's location near Bardstown Road, Watterson Trail, and Fegenbush Lane will provide several means of access to major area employment centers and services; because this proposal will provide this area with new, alternative style housing choices for residents who desire to live in this community but prefer lower maintenance, less demanding condominium style living; because McBride proposes 3-plex buildings which will each have garages for four cars per building; because additional parking for visitors is provided throughout the proposed community; because McBride proposes a gross density of 7.3 dwelling units per acre for Villages of Star Hill which is in the low end of the medium density range and is dedicating right-of-way and constructing public roads through the property; because buildings will be constructed of durable building materials, are only two stories in height and will feature attractive architectural details; because a signature entrance and landscaping are provided along the frontage at S. Hurstbourne Parkway, and sidewalks are proposed along all public streets, providing safe areas for pedestrians to travel to nearby neighborhoods; because open space areas are identified on the accompanying development plan and will provide open, natural space for residents' recreational needs; because perimeter setbacks and landscape buffer areas are preserved along all property lines and on the interior sides of the public streets provided; because McBride is providing significant landscaping within the parkway buffer and setback along Hurstbourne Parkway; and because the condominium council of co-owners will contract with professional groundskeepers for care of the common areas including the entrance frontage, buffers and open space areas, as is typical for planned condominium communities; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent and specifically with Policies 4, 5, 12 and 14 of Guideline 2 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is centrally located where residents currently seek new housing options and have easy access to area commercial and employment centers; because the condominium style homes that will be available at the Villages of Star Hill will diversify housing options in this area; because future residents will also support the businesses and services in nearby activity centers; because the Villages of Star Hill will connect to existing utilities

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

available at the applicant's cost, eliminating the need for costly utility extensions; and because the landscaped, signature entrance and well-defined internal streets provided in the Villages of Star Hill, as well as the architectural building style and natural open spaces provided within the community, will combine to provide residents with a sense of place and recreational space; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 21, 22, 23, and 28 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan for all the reasons listed above and because the proposal is in the middle density range, and significant open spaces are provided; because the applicant is providing new public streets to improve area infrastructure, and the buildings will be two-story in scale and constructed with attractive building materials (mostly brick) and in style created in collaboration with Planning and Design Services staff to blend easily with nearby neighborhoods; because perimeter landscaping is provided along all property lines, and on the internal sides of the new public streets; because buildings are oriented toward the public streets, and garages are located at the rears of each building on the proposed private streets, in order to keep resident activities away from adjoining property owners; because the subject property is adjoined by church and other residential properties; because the Villages of Star Hill will support better housing options in this area; because many "empty nester" residents prefer housing that provides them access to all the positive attributes of a specific community but do not desire to purchase and maintain single family properties, requiring alternatives that support a better mixture of residential density and intensity land uses; because sidewalks are provided along all public streets to accommodate pedestrian and bicycle transportation as well as support connectivity with nearby communities; because handicap parking, access for the disabled and other safety measures will be provided in accordance with the law; because access and connectivity is ensured by the provision of two public streets within the Villages of Star Hill that will connect to adjoining properties; because odor and air quality concerns related to traffic congestion or delay will be mitigated by the fact that the internal road and sidewalk system is efficiently organized to control traffic flow and prevent delays; because lighting will be residential in style and design in conformance with Land Development Code regulations; and because signage, too, will be in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of Guidelines 4 and 5 and specifically with Policies 1, 3, 5, 6 & 7 of Guidelines 4 of the Cornerstone 2020 Comprehensive Plan for all the reasons

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

described above and because the proposed Villages of Star Hill will feature open spaces interspersed among the buildings and public streets that will be available for recreational use by residents and will serve to provide natural areas and an overall positive appearance for the community and for those driving through on the new public streets; because landscaping will also be provided along property perimeters, along street frontage and around buildings; because setbacks and buffers along property lines will ensure good transitions between the proposed development and existing land uses; because maintenance of landscaping, natural and open space areas will be done by professionals and contracted for by the condominium council of co-owners; because this maintenance arrangement will likely result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and because no portion of the subject property has been designated as a natural, historic or scenic preservation site; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent and specifically with Policies 1, 2 and 6 of Guideline 6 for all the reasons described above and because, as noted above, future Villages of Star Hill residents will support and be supported by the businesses, services, schools and churches in and around nearby activity centers; because this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and because the Villages of Star Hill community, as proposed, will provide easy access to several roads in the area, and from there to greater Louisville employment and commercial centers; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent and Policies of Guidelines 7, 8 and 9 of the Cornerstone 2020 Comprehensive Plan for all the reasons described above and because the applicant has provided multiple new public streets, at the request of Louisville Metro Public Works, which will improve the efficiency of roadway infrastructure in the area as well as support good connectivity among neighborhoods; because the proposed development provides sidewalks along streets from S. Hurstbourne Parkway along streets within the community; because the signature entrance from S. Hurstbourne Parkway and its connection to the street and sidewalk system within the Villages of Star Hill will provide safe, controlled and efficient traffic flow to and through the community; because the sidewalks will also accommodate the needs of pedestrians and bicycle traffic; because S. Hurstbourne Parkway is adequate to handle the amount of traffic generated by this proposal; and because transit is available in the area; and

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

**WHEREAS**, the Commission further finds that the application complies with the overall intent of Guidelines 10, 11 and 12 of the Cornerstone 2020 Comprehensive Plan for reasons evident on the accompanying district development plan and because no portion of the site lies within the 100 year floodplain, and all drainage will comply with the MSD requirements; because Louisville Water Company will provide water to the Villages of Star Hill; because a soil and sediment control plan will also be implemented to manage erosion and control sediment during construction; because air quality will remain at good levels because, as noted above, the proposed internal road system, multiple street connections to adjoining properties and controlled entrance will distribute traffic to reduce air quality impacts relating to congestion or delays; and because condominium units generate much less traffic on a per unit basis than single family homes, and condominium communities do not have significant impacts on morning and evening peak hour traffic; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent and Policies of Guideline 13 of the Cornerstone 2020 Comprehensive Plan for all the reasons described above and because significant landscaping will be provided around buildings, along the S. Hurstbourne Parkway entrance and frontage, along public streets internally, and along property perimeters as noted above; because meaningful open space has been preserved for residents' enjoyment and as aesthetic focal points; and because tree canopy requirements have been met, as noted on the development plan; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of Guideline 14 of the Cornerstone 2020 Comprehensive Plan because water, sewer, electric and phone connections are available nearby to ensure a reduced cost for infrastructure; and because McBride is also building and dedicating at no cost to Louisville Metro, two public streets; and

**WHEREAS** the Commission further finds that the application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan;

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and



## PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

### PUBLIC HEARING

DOCKET NO. 9-45-06V & 10-34-06

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 Single Family Residential to R-5A Multi-family Residential** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES: Commissioners Ernst, Carlson, Hamilton, Queenan, Wells-Hatfield, Blake, Abstain, and Adkins.**

**NO: No one.**

**NOT PRESENT: Commissioner Howard.**

**ABSTAINING: No one.**

### Waiver

On a motion by Commissioner Blake, the following resolution was adopted:

**WHEREAS** the Commission finds that the applicant hereby requests a waiver of LDC Section 10.2.4.B to permit greater than 50% encroachment of LG&E easement into required landscape buffer area as shown on the proposed development plan; and

**WHEREAS** the Commission further finds that the waiver will not adversely affect adjacent property owners because the parkway buffer and setback requirements will still be met, but some of said buffer will be in an existing LG&E easement; that the buffer affected by this waiver is adjacent to the recently completed roadway, not any adjoining property; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan because this requirement was designed to maintain the effectiveness of both the buffer and easement affected when the two overlap; that in this case, the setback from Hurstbourne Parkway is greater than what the LDC calls for, providing ample open space and buffer area between structures and parking and the road; that the LG&E easement predates development of the site, runs directly adjacent to the road and will not prevent significant landscaping of the parkway buffer area; and

## PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

### PUBLIC HEARING

DOCKET NO. 9-45-06V & 10-34-06

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because, as stated above, the applicant is providing more than the required setback from Hurstbourne Parkway, will provide the required screening and buffering materials, but cannot create the road connections desired by both Metro Works and DPDS and still provide an independent buffer at the front of the property, and still feasibly build the proposed development; and

**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) because the applicant is, as stated above, providing more than the required setback and significantly planting the parkway buffer as required within and partly outside the easement; now, therefore be it

**RESOLVED**, That The Land Development and Transportation Committee does hereby **APPROVE** the Minor Plat for McBride & Son Homes Land Development, Docket No. 9-45-06 & 10-34-06 and does hereby **GRANT** a Waiver under Section 10.2.4.B to permit greater than 50% encroachment of LG&E easement into required landscape buffer area as shown on the proposed development plan.

The waiver(s) are as specified in the Committee's resolution and do not waive any other regulation.

**The vote was as follows:**

**YES: Commissioners Ernst, Carlson, Hamilton, Queenan, Wells-Hatfield, Blake, Abstain, and Adkins.**

**NO: No one.**

**NOT PRESENT: Commissioner Howard.**

**ABSTAINING: No one.**

### **Subdivision**

On a motion by Commissioner Blake, the following resolution was adopted:

**WHEREAS**, The Commission finds that the proposed subdivision complies with all applicable zoning and subdivision regulations; now, therefore, be it

# PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

## PUBLIC HEARING

DOCKET NO. 9-45-06V & 10-34-06

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the preliminary plan for McBride & Son Homes Land Development, Docket No. 9-45-06 & 10-34-06, marked, "Received November 28, 2006, Planning and Design Services", **subject to the following conditions of approval:**

### **Binding Elements**

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Use of the subject site shall be limited to multi-family and other uses permitted in the R-5A zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The density of the development shall not exceed 8.27 dwelling units per acre.
4. Signs shall be in accordance with Chapter 8 of the LDC.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):

## **PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

### **PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 7, 2006 Planning Commission meeting.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits

## PLANNING COMMISSION MINUTES

DECEMBER 7, 2006

### PUBLIC HEARING

#### DOCKET NO. 9-45-06V & 10-34-06

shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. The **signature entrance** shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The location of **sinkholes** as shown on the district development/preliminary plan shall be identified on the record plat.
14. A **geotechnical report** shall be conducted for the site and the results shall be submitted to the Planning Commission, Public Works, and MSD for review prior to construction plan approval. A plan shall be submitted to said agencies specifying how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
15. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 Land Development Code prior to recording a record plat. The applicant shall provide the landscape materials on the site as specified on the approved landscape plan prior to the issuance of the Certificate of Occupancy. The applicant shall provide landscaping along Hurstbourne Parkway frontage, including a variable 15-foot landscape buffer area outside the LG&E easement, meaning in some places more and in some places less than 15 feet outside the LG&E easement can be provided as long as the average is 15 feet.
16. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the District Development Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. Trees removed for maintenance of utility easement, disease or other reasons shall be replaced at the owner's expense.
17. Street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

**PLANNING COMMISSION MINUTES**

**DECEMBER 7, 2006**

**PUBLIC HEARING**

**DOCKET NO. 9-45-06V & 10-34-06**

**The vote was as follows:**

**YES: Commissioners Ernst, Carlson, Hamilton, Queenan, Wells-Hatfield, Blake, Abstain, and Adkins.**

**NO: No one.**

**NOT PRESENT: Commissioner Howard.**

**ABSTAINING: No one.**